

Weber River

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>South Weber Irrigation Company</p> <p>RESPONDENT</p>	<p>MEASURING DEVICE NOTICE</p> <p>SEAA No. 1300 DISTRIBUTION ACCOUNTS: 102364 WATER RIGHTS: 35-8015</p>
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I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:

(a) each location where water is diverted from a source; and

(b) any other location required by the state engineer.

(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.

(3) The state engineer shall approve the design of:

(a) the measuring device; and

(b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...

(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:

(a) forbid the use of water until the user complies with the state engineer's requirement; and

(b) commence enforcement proceedings authorized by Section 73-2-25.

II. STATEMENT OF FACTS

1. The Respondent diverts water from the Weber River into the South Weber Canal on the left bank of the river near the mouth of Weber Canyon.

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2. In past years the water delivered to the South Weber Canal was measured using a flume located on the canal. That flume is not longer in service due to the conversion of the canal into a pipeline.
3. Water is diverted from the river at a headgate structure near the diversion point located near N 1216 ft E 323 ft from S4 cor, Sec 25, T 5N, R 1W, SLBM.
4. Water flows down an open channel a short distance to a second control structure that also somewhat controls the quantity of water diverted from the river. Other water users also share in using the open channel to the second control structure.
5. Water enters the Respondent's pipeline through the above-referenced second control gate structure located at or near the point North 1030 feet and West 40 feet from the S4 corner of section 25, township 5N range 1W, SL b&m.
6. The measurement of the water diverted by the Respondent is not available to the commissioner who regulates and reports water deliveries on the river system.
7. Deliveries into the pipeline must be measured, regulated, and reported by the Weber River commissioner.

III. ACTIONS REQUIRED

1. A measuring device must be properly installed and maintained that will enable the commissioner to obtain reliable measurements of (1) the water flowing into the South Weber Pipeline from the river and (2) the total volume of water delivered.
2. The river commissioner must have easy (reasonable) access to the meter or measuring device whenever needed by him to regulate and report water deliveries.
3. The required work must be completed before April 15, 2009.

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation."

V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Ross Hansen
Regional Engineer
Weber River/Western Region
Utah Division of Water Rights
(435) 781-5327

Ben Anderson
Water Rights Distribution Engi.
Utah Division of Water Rights
(801) 538-7469

1594 W North Temple Ste 220
P.O. Box 166300
Salt Lake City, UT 84104-6300

Dated this 15th day of January, 2009



Ben L. Anderson, P.E.
Water Rights Distribution Engi

U.S. Postal Service™ Delivery Confirmation™ Receipt

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South Weber Irr. Co.
(Please Print Clearly)

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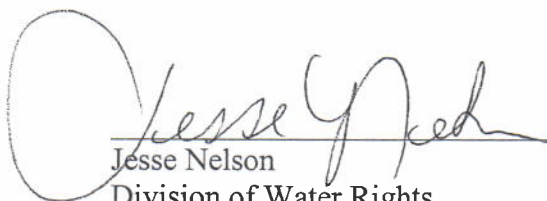
DELIVERY CONFIRMATION NUMBER: 9000 0000 0000 0000

PS Form 152, May 2002

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 15th day of January, 2009, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

South Weber Irrigation Company
6525 S 475 E
South Weber, UT 84405



Jesse Nelson
Division of Water Rights
Field Services Secretary